

Legislation on Halal Food in Pakistan: An Analytical Study

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Abstract

The term 'ḥalāl' signifies 'permissible' for Muslims. Islamic laws regarding the determination of ḥalāl and harām food have been clear but after the introduction of modern techniques of food deciding of food as ḥalāl or harām has become a major concern for Muslim populations as well as Muslim states. Muslim states have introduced laws to ensure ḥalāl character of foods and Pakistan is no exception. In Pakistan, there are several laws related to this issue. The West Pakistan Pure Food Ordinance was enacted in 1960 which regulated the preparation and sale of foods. The Breastfeeding Ordinance 2002 was introduced to regulate baby food manufacture. Then there are laws like Pakistan Status of Food Laws and Regulations 2015, the Halal Food Authority Act 2015, and Pakistan Hotel and Restaurants Act 1976. With time, the need was felt to establish bodies which can verify food ingredients as well as manufacture procedure and can issue certificates. There is a need to thoroughly analyze these laws as well as the procedure of ḥalāl certification to find out the strengths and flaws/lacunae of the system if any. This article will present an analytical study of laws related to ḥalāl food in Pakistan and will propose suggestions to improve the effectiveness of these laws.

Keywords: ḥalāl food, Pakistani law, Islamic law, halal food authority

Introduction

Ḥalāl is an Arabic word meaning lawful and permitted. Islam has its dietary laws for Muslims. The term *ḥalāl* consists of anything free from any component that Muslims are prohibited from consuming. The term *ḥalāl* has been used in Qurān in the meaning of permitted, allowed, lawful or legal. Its opposite is *harām* which denotes something or act which is forbidden, unlawful, or illegal. According to Shari'ah, all issues concerning *ḥalāl* or *harām* should be referred to as Qurān and Sunnah. *Ḥalāl* may have been identified by explicit evidence in the Shari'ah or by reference to the presumption of permissibility (*ibāhah*). Pakistan as an Islamic state is committed to enabling Muslims to lead their lives following Islamic law.¹ This purpose can only be achieved through legislation based on Shari'ah. Pakistan has a legal framework regarding *ḥalāl* food which needs to be explored.

This research paper does not discuss Islamic dietary laws in detail rather it focuses on Pakistani law related to *ḥalāl* food. If we look at the current literature on this topic we notice that writings by Islamic jurists have dealt with rules related to *ḥalāl* food extensively but we cannot find a comprehensive study related to relevant Pakistani laws. No such study was found in which all the laws related to *ḥalāl* food have been discussed comprehensively. Several surveys² regarding consumer trends have been conducted by scholars but there is a need to study relevant laws in detail to point out loopholes and deficiencies, and to propose reforms.

This is a qualitative study. The author has used the doctrinal method³ which is normally used for legal analysis. The main sources of this research paper are statutes, commentaries, relevant books, and research papers. This article will present an analytical study of laws related to *ḥalāl* food in Pakistan and will propose suggestions to improve the effectiveness of these laws.

The 'Ḥalāl' Label

Ḥalāl food means the food 'ritually fit for use as it has been 'sanctioned by Islamic law'. There is a *hadith* 'the *ḥalāl* is that which Allah has made lawful in His Book and the *harām* is that which He has forbidden, and that concerning which He is silent, He has permitted as a favor to you.'. This is an inherently religious term but Muslim states while regulating the production and supply of *ḥalāl* food have tried to define it. The basic purpose of such definitions is to prevent the fraudulent representation of food as being *ḥalāl*.⁴

Ḥalāl means what is lawful and permitted by the lawgiver, per shariah law.' In today's world, the word *ḥalāl* denotes a growing market involving producers, consumers, and certifying authorities. To fulfill the needs of the Muslim Diaspora all around the world *Ḥalāl* food supply is one of the major issues which need to be catered by Muslim countries. According to the 2016

Halāl food Indicator Index,⁵ out of the top 15 *halāl* user countries in the world three scored the highest Malaysia (obtaining a score of 89), UAE (obtaining a score of 67), and Pakistan (obtaining a score of 60).⁶ *Halāl* rules and regulations must govern the whole production chain of a product. Here not only the outcome is important but also the raw material and the process.

There are four main principles to determine the *halāl* status of a product:⁷

1. A product that contains physical elements of *harām* animals i.e. those which are prohibited to consume in Islamic law, is considered non-*halāl* or *harām*.
2. A product that contains physical elements of *halāl* animals i.e. those which are permitted to be consumed, but are not slaughtered according to the Islamic rules is also non-*halāl*.
3. A food product that contains any element of prohibited liquor is also non-*halāl*. However, about the use of alcohol in non-food products, for instance, perfumes, more lenient juristic opinions can be found.
4. *Halāl* certification and labeling are a part of the measures which should be taken for trade.

Halāl certification process certifies certain procedures and standards to be followed about production, processing, packaging, transportation, and selling of the products to the customers. States can impose conditions regarding the country of origin and exporting entity whether it is a company, enterprise, or individual. These *halāl* regulatory frameworks may differ from state to state but they are primarily based on Islamic law.⁸ *Halāl* logos are placed on the product in response to market demand. *Halāl* logos are also helpful for a customer to decide about the permissibility of a product.

Islamic laws regarding the determination of *halāl* and *harām* food have been clear but after the introduction of modern techniques of food making, determination of food as *halāl* or *harām* has become a major concern for Muslim populations as well as Muslim states. Muslim states have introduced laws to ensure *halāl* character of foods and Pakistan is no exception. In Pakistan, there are several laws related to this issue. Food imports/exports are regulated by the federal government whereas food safety standards are regulated by the provincial governments. By the eighteenth amendment in the Constitution of Pakistan 1973, functions/authority related to agriculture were devolved upon the provincial governments. Among the laws directly related to food, the West Pakistan Pure Food Ordinance was enacted in 1960 which regulated the preparation and sale of foods. The Breastfeeding Ordinance 2002 was introduced to regulate baby food manufacture. Then there are laws like Pakistan Status of Food Laws and Regulations 2015, the *Halāl* food

Authority Act 2015, and the Pakistan Hotel and Restaurants Act 1976. With time, the need was felt to establish bodies which can verify food ingredients as well as manufacture procedure and can issue certificates. There is a need to thoroughly analyze these laws as well as the procedure of *ḥalāl* certification to find out the strengths and flaws/lacunae of the system if any.

Laws Relating Ḥalāl food in Pakistan

In Pakistan, no law defines the term '*ḥalāl*'. Some statutes give rules for trade in food items but a specific statute that describes and differentiates between *ḥalāl* and *harām* is lacking. The laws which are related to the subject are the Pure Food Ordinance 1960; Pakistan Hotel and Restaurants Act 1976; Pakistan Standards and Quality Control Authority Act 1996; the Halal Authority Act 2015, The Breastfeeding Ordinance 2000.

Following are the most important of these laws: the Pure Food Ordinance 1960; the Halal Authority Act 2015 and the Breastfeeding Ordinance 2000. The Pakistan Hotels and Restaurants Act 1976 deals with the issues of licensing and registration, fair rates, etc. but does not deal with the issue of food. Pakistan Standards and Quality Control Authority Act 1996 is related to food safety. In the sections below important laws related to the issue have been discussed.

The West Pakistan Pure Food Ordinance 1960

This law consolidates the laws related to the preparation and sale of foods. All provinces have adopted this law. This Act does not apply to cantonment areas. For cantonment areas, there is a separate set of laws 'the Cantonment Pure Food Act 1966' but the contents of both laws are the same. The Ordinance deals with the issues like trade in those products which are injurious to health. Any food which is injurious to health in any way should not be manufactured, prepared, or sold.⁹ Punishment for the persons who have been involved in the manufacture, storage, or trade of such food at any stage is following: for the first time offender rigorous imprisonment up to three years and with fine ranging from one thousand to two thousand rupees; for second time offender the punishment is rigorous imprisonment which shall not be less than 3 years and not more than 5 years and with fine ranging from 5000 to 10000 rupees; the punishment for repeated offenses or offenses of large scale adulteration or adulteration with injurious substances, even on the first instance is rigorous imprisonment from three to five years and with fine ranging from ten thousand to one lakh rupees.¹⁰ In August 2003 the Federal Cabinet enhanced the punishment for adulterators to 25 years imprisonment. This increase is higher than the punishments normally awarded under this Act.

The Local authorities are empowered to appoint a health officer or

inspector. A Health officer or inspector may stop the supply of injurious or adulterated goods. A person who has any contagious disease can be stopped from manufacturing/ preparing food. The health officer may ask him to obtain a health certificate certifying that he has no such disease.¹¹ Experts may be appointed for the analysis of food by the local authorities. If the inspector finds any food which is unhealthy, unwholesome, injurious to health, he may seize or remove such items, apparatus, or utensils. The owner/manufacturer may file a complaint to the Magistrate (first or second class) about such seizure within seven days. The Magistrate may after inquiry confirm or disallow the seizure.¹²

Any person can apply for the Inspector to collect and analyze any particular food item. The cost of the food purchased to serve as a sample and of its analysis will be borne by the complainant. If the sample is found to be adulterated by the analyst the amount spent by the complainant will be refunded.¹³

It is clear from the above-mentioned provisions that this Ordinance relates to food safety and not to the issue of *ḥalāl* or *harām* attributes of the food.

The Pakistan Halal Authority Act 2015

The Pakistan *Halal* Authority Act 2015 is a federal law that is applicable throughout Pakistan. The purpose of this Act is to facilitate and govern the import, export, trade, and commerce with other countries and inter-provincial trade in the halal food industry. The accredited Halal Certification Body is defined by the Act as a firm or company which has been certified by the National Accreditation Body as being competent and authorized to carry out *ḥalāl* certification.¹⁴ *Ḥalāl* certificate will be issued after inspection, test, audit, evaluation to assess the conformity of that article/process with the *ḥalāl* standards and then *ḥalāl* certificate will be issued.¹⁵ Article 2(h) defines the term *ḥalāl* as meaning anything permitted by the laws of Islam. The Act says that OIC guidelines related to *ḥalāl food* will be followed. These guidelines are treated as a part of the Act.

Section 10 of the Act gives powers and functions to the Halal Food Authority. These functions include to develop and implement policies, strategies for the promotion of halal trade; to recommend *ḥalāl* standards developed for articles and processes, such standard must be by OIC guidelines; to develop rules and policies for compliance with these devised rules; issue, renew or cancel a *ḥalāl* certificate; inspect products claimed to be *ḥalāl* and test processes to ensure their quality, specification, and characteristics with relation to the *ḥalāl* standards; prohibit the production, storage, and sale of non-*ḥalāl* items in Islamabad; take steps to strengthen

halal industry/sector.

The law requires that to meet *halāl* requirements details of ingredients, manufacturing process and expiry date should be mentioned on the box.¹⁶ The *Halāl* logo can only be used in conformity with the conditions mentioned in the *halāl* certificate.¹⁷ Inspectors can be appointed for enforcement of the Halal Authority Act 2015. A Civil Judge, First class can take cognizance of an offense committed in contravention of this Act. All offenses committed under this Act are compoundable and bailable.¹⁸ The government has the authority to exempt any article/item from the operation of the provisions of this Act.¹⁹

For determination of *halāl* status of a food item the Halal Authority Act, 2015 refers to the guidelines issued by the Organization of Islamic Conference on *halal* food. These guidelines are very detailed and give the basic requirements which should be followed at every stage by manufacturers, producers, and traders. These guidelines were developed by the Standardization Expert Group (SEG) of the OIC. These are the standards that are based on commonly accepted rules and beliefs of Islam. The term '*halāl* food' is defined as 'the food including drinks, which is allowed to be consumed according to Islamic rules and that comply with the requirement mentioned in this standard'. Food safety and traceability have been made a prerequisite of all *Halāl* food.²⁰

The guidelines give details about *halal* and non-*halal* animals. It also gives detailed rules regarding slaughtering including mechanical slaughter and electrical stunning. Farmed *halāl* animals which are intentionally and continually fed with non-*halāl* food will be considered non-*halāl*.²¹ Food additives should not be non-*halāl*. The guidelines also deal with the food services, facilities, food processing, food safety, identification and traceability, packaging, labeling, and requirements of cleaning.

The Protection of Breastfeeding and Child Nutrition Ordinance, 2002

The only law relating to suckling in Pakistan is Ordinance XCIII of 2002, the Protection of Breast-Feeding and Child Nutrition Ordinance, 2002.²² The International Code of Marketing of Breast Milk Substitutes was passed by the World Health Organization in 1981 and Pakistan voted in favor of the adoption of the code. The 2002 Ordinance was enacted to implement the Code.²³ This ordinance contains the following main points: safe and adequate nutrition for children shall be ensured by promoting and protecting breastfeeding and by regulating the marketing and promotion of designated products including milk substitutes, feeding bottles, etc. The Ordinance defines 'infant' as a child up to the age of twelve months and a 'young child' as a child from the age of twelve months up to the age of two years.²⁴ A National

Infant Feeding Board and Provincial Infant Feeding Committees are to be established. The Ordinance provides that at least half of the members of these Boards should comprise experts in child nutrition. These Boards and Committees shall check the implementation of the provisions of the Ordinance and will advise the federal government and the provincial governments on national policies for the promotion and protection of breastfeeding and other designated products through national or provincial education campaigns.²⁵

The Ordinance prohibits the assertion by any person that any designated product is a substitute for mother's milk, or that it is equivalent to or comparable with or superior to mother's milk.²⁶ No label of a designated product shall be designed to discourage breast-feeding and every label shall contain a conspicuous notice in bold characters stating the following:

*'Mother's milk is the best food for your baby and helps in preventing diarrhea and other illnesses'*²⁷

According to the Ordinance, health workers should be properly educated and they shall encourage, support, and protect breastfeeding. They shall not accept or give samples of any designated product to pregnant women, mothers of infants and young children, or members of their families.²⁸ The rest of the Ordinance deals with the rules for manufactured products for infants and young children. The Ordinance provides for imprisonment for up to two years, with a fine which shall not be less than fifty thousand rupees or more than five hundred thousand rupees for a manufacturer or distributor²⁹ who contravenes the provisions related to prohibited practices³⁰ and quality assurance.³¹

In Pakistan, most health professionals are not aware of this legislation and the Ordinance is not implemented to its full effect. Studies have shown a lack of awareness among health workers and the need to implement the law more efficiently. Rules and regulations should be made to implement the law as companies, to promote milk substitutes, are often found violating the law by using prohibited market practices such as the giving of free samples, gifts, and sponsorships to health workers.³²

The Halal Certification Bodies

In Pakistan, there are bodies like SANHA and Halal Foundation Pakistan which are responsible for the issuance of *ḥalāl* certificates. The applicants are required to fill an application form and to disclose all the ingredients and manufacturing procedures of the product. The certification body will evaluate the ingredients and manufacturing procedure. A site inspection can also be conducted by such authorities. At such visits,

compliance to *halal* requirements are evaluated and recommendations are made for such compliance. *Halāl* certificate is issued after fulfillment of all the requirements.

The *Halāl* logo is very important as it plays a role in consumer's purchasing decisions. It has been proved through researches that due to weak educational background and less awareness a large number of people depend on the *halāl* logo to decide about the permissibility of a food product.³³ *Halāl* certification is an indicator that the product can be consumed with confidence. Shari'ah-compliant *halāl* label is a necessity if one wants to target the *halāl* market. *Halāl* certification ensures that shari'ah complaint procedures have been followed. *Halāl* supply chain approach guarantees the *halāl* integrity at the time of consumption. It is to ensure shari'ah compliance from the point of origin to the point of consumption.³⁴

All laws discussed above are very poorly enforced. Efforts should be made by the government to enforce these laws. From the above discussion, it is apparent that Pakistani law lacks *halāl* standards. The term '*halāl*' is not defined by the parliament. The current law only regulates the trade of food items. The rules which decide permissibility or prohibition of any food are not given by the statutes. There is a need to have fresh legislation regarding the issue which defines the term '*halāl*' and prescribes the rules by application of which a food item can be declared as *halāl* or *harām*.

WTO and *Halāl* Regulations

The World Trade Organization (WTO) which was established on 1st January 1995 regulates trade internationally. Two major WTO agreements which hugely affect the production and trade of goods are the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and the Agreement on Technical Barriers to Trade (TBT). To discuss SPS and TBT in detail is outside the scope of this article. In short, three major areas should be taken care of by the member states: food safety, animal health, and plant health. For food safety, the standards and guidelines are given by the Codex Alimentarius Commission related to food additives, veterinary drugs, pesticide residues, contaminants, hygiene practices, etc. To regulate imported food products the federal government applies Codex standards and guidelines whereas US Food and Drugs Administration Standards are also used for certain products. The standards and guidelines concerning animal health are formulated by the International Office of Epizootics. Standards and guidelines for plant health are framed by the Secretariat of the International Plant Protection Convention in cooperation with regional organizations.³⁵

Implementation of *halāl* measures can raise compliance issues with regards to GATT/WTO rules. *Halāl* measures can be termed as trade barriers

which are against the spirit of WTO as it was created to remove trade barriers.³⁶ According to Article XI of GATT *halāl* measures are restrictions that violate this article and general provisions of GATT. The compatibility of *halāl* measures has been raised in at least two cases: Indonesia – Importation of Horticultural Products, Animals and Animal Products.³⁷ There is a need to develop the WTO jurisprudence on *halāl* measures. Article XX(a) (on the ground of public morals) can give a place to *halāl* measures. *Halāl* measures are recognized by WHO but there is reluctance in their application as well.³⁸ There is a need for proper lobbying and campaigning by the Muslim States to remove reluctance and obstacles in the application of *halal* food regulations in international institutions.

The WTO agreement on Sanitary and Phytosanitary Measures in 1995 adopted Codex Alimentarius as the source of international food standards. This development has a great influence on food regulations worldwide.³⁹ Codex Alimentarius is a Roman word that means ‘food code or food law’. This code is a compilation of internationally adopted food standards covering processed, semi-processed and raw food.⁴⁰

The SPS enumerates the rights and duties of member states regarding the protection of life (human, animal, and plant), sanitary and phytosanitary measures. Member states are expected to formulate their policies on international standards. The TBT agreement deals with technical regulations and standards like packaging, marking, labeling, testing, and certification procedures. At the same time, the TBT ensures that such regulations do not create unnecessary obstacles/barriers to international trade. The basic purpose of these internationally developed standards is to bring uniformity in the trade and to help countries by providing ready-made standards to get access to international markets.⁴¹

To improve trade in the *halāl* market Pakistan needs to prepare experts who have excellent knowledge and understanding of WTO agreements so that a proper policy regarding import and export of *halāl food* can be prepared. Pakistan’s existing food safety laws should be reviewed to update them to cope with emerging issues.⁴²

Challenges and Opportunities

Halāl food industry is a vibrant industry. There is a need to improve the system and provide opportunities for its growth. Several studies have shown the Muslims living in non-muslim countries have a strong inclination to consume *halāl* products. Factors that affect *halāl food* perceptions include religious commitment and self-identity.⁴³ The challenges faced by Pakistan’s *halāl food* industry and law-making authorities are to determine *halāl*

standards. Pakistani law lacks these standards and it creates confusion for the manufacturers and traders as these standards are made by different organizations, national and international. A tracking technology should be developed which should verify the process of extracting ingredients to their source as well as supply chain. The manufacturer in several instances is not sure that which standard is applicable in his case and will give him market access.

The Organization of Islamic Conference countries including Pakistan that has expertise in *ḥalāl food* processes should engage in businesses with non-OIC countries who want to develop their *ḥalāl* industry. Malaysia and the United Arab Emirates are the countries that are assisting countries like China, South Korea, and South Africa in developing their *halal* food industry. Muslim countries should develop comprehensive *ḥalāl food* standards and guidelines. There should be an international scheme to accredit *ḥalāl* Certification Bodies. Tracking technology should be devised. It is very necessary to verify supply-chain integrity.⁴⁴

Ḥalāl food is considered safe and wholesome. *Ḥalāl food* market has immense potential to grow as this food is considered to be the global standard for safe and wholesome food if producers fully adhered to the concept of *ḥalāl* and *tayyab* as given in the divine scriptures. With the increase in awareness, there is an increased global demand for organic and natural food which has appeared not only among Muslim but also Non-Muslim consumers. Muslim producers should strive to achieve this goal despite the higher cost which is involved to produce farm-raised, organic-fed meat. There is a huge potential of developing good quality innovative *ḥalāl* brands for Muslim and non-Muslim consumers if proper legislation and facilitation are done by Muslim countries including Pakistan.

Investment should be encouraged in the *ḥalāl* industry so that it may generate revenue for the state and facilitates Muslim consumers. Many companies in the *ḥalāl food* market are small and fragmented. Investment should be encouraged in this area as financing vertical integration of the supply chain, from slaughterhouses to distributors can produce lucrative returns as well as develop strong companies.

There is a need to develop a comprehensive law related to *ḥalāl food* in Pakistan. Basic elements of a food law should be enabling and administrative provisions, the constitution of a food authority, food board, provisions related to inspection and analysis, determination of offenses and penalties. The 1976 FAO/WHO Model Food Law⁴⁵ can be taken as a guideline. It was developed by the FAO/WHO Food Standards Programme. It is a general law but can be proved as useful. A comprehensive and coherent national legal framework along with a centralized authority is need of the time.

Conclusion

The *ḥalāl food* industry is one of the most rapidly growing industries in the world. Pakistan has the potential to become a hub of this industry. 'Halāl food laws' is need of the time which can help in regulation, monitoring, and development of this industry. Pakistan lacks any legislation which defines and describes the term 'ḥalāl' and distinguishes it from *harām*. The legislation which is related to food only gives some regulations for their manufacture and trade. From the above discussion, it is apparent that Pakistani law lacks *ḥalāl* standards. The rules which decide permissibility or prohibition of any food are not given by the statutes. There is a need to have fresh legislation regarding the issue which defines the term 'ḥalāl' and prescribes the rules by application of which a food item can be declared as *ḥalāl* or *harām*.

Existing laws that regulate the manufacture and trade of food items remain very poorly enforced. The government should make efforts to enforce these laws. Pakistan does not have an integrated legal framework for *ḥalāl* food, food safety, and traceability. A centralized authority should be established to overview the enforcement of these laws. To regulate imported food products the federal government applies Codex standards and guidelines and US Food and Drugs Administration Standards are also used for certain products. To improve trade in the *ḥalāl* market Pakistan needs to prepare experts who have excellent knowledge and understanding of WTO agreements and related rules so that a proper policy regarding import and export of *ḥalāl food* can be prepared. *Ḥalāl* certification bodies need to be authorized to function in their respective fields properly. Fresh detailed legislation is needed to cover all these issues. The food law should deal with the regulation of food control, food safety, and food trade as well as food security and implementation of the right to food which is a fundamental right. The 1976 FAO/WHO Model Food Law can be taken as a guideline for this purpose.



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